REMARKS

Applicant respectfully requests reconsideration of this application in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action.

<u>The Office Action's Failure to Answer Applicant's Traversal</u>

As a preliminary matter, Applicant notes that the current Office Action mailed July 13, 2006, does not provide a response to any of Applicant's remarks mailed on June 5, 2006. Rather, the current Office Action merely restates all of the previous arguments presented to support a prior, outdated rejection. According to M.P.E.P. § 707.07(f), the Office Action should take note of Applicant's traversal and answer the substance of it. Since the current Office Action does not answer Applicant's remarks, Applicant respectfully submits the current Office Action is incomplete and improper.

Moreover, the current Office Action does not address the amendments, including several new claims 22-29, submitted in Applicant's response mailed June 5, 2006. Although the headings in the current Office Action were updated to refer to the new claims by number, the content of the rejections fails to address the amended language of the claims. Furthermore, the content of the rejections fails to address any of the limitations of the new claims 22-29 presented on June 5, 2006. Given that the current Office Action does not address the new claims, Applicant respectfully submits the current Office Action fails to establish a prima *facie case* of anticipation or obviousness because the current Office Action does not even attempt to show how the cited references might teach the amended limitations of the claims. Therefore, the purported arguments are insufficient to support a rejection under either 35 U.S.C. § 102 or § 103 and should be withdrawn.

Additionally, if claims 22-29 are subsequently rejection, then such rejection should be considered a new rejection since the current Office Action does not assert a proper rejection of claims 22-29. Hence, a subsequent rejection, if any, of claims 22-29 should not be made final since Applicant's future response to such rejection would be Applicant's first opportunity to respond to such rejection.

Applicant understands that this application has recently been assigned to another examiner. For the Examiner's convenience, Applicant has reproduced in the present response some of the remarks originally presented in Applicant's response mailed on June 5, 2006. However, the Examiner should refer to the complete file history for a full understanding of Applicant's present remarks.

Status of the Claims

Claims 1-3, 5-11, 13-14, and 17-29 are pending. No claims are currently amended. No claims are canceled. No claims are added. No new matter has been added.

Summary of the Office Action

Claims 1-3, 5-11, 13-14, and 17-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by International Publication No. WO 01/75620 A1 to Novak (hereinafter "Novak").

Claims 1-3, 5-11, 13-14, and 17-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,510,497 to Strongin et al. (hereinafter "Strongin") in view of Novak. U.S. Patent No. 5,107,257 to Fukuda (hereinafter "Fukuda") is also offered as extrinsic evidence.

Response to Rejections

Applicant respectfully requests withdrawal of the rejections of claims 1-3, 5-11, 13-14, and 17-29 because the cited references fail to disclose all of the limitations of the claims. In particular, Strongin and Novak fail to disclose a configurable switch point.

Strongin does not disclose a switch point because Strongin merely describes using a hierarchy to schedule pending memory operations. Although the Office Action states that Strongin discloses a switch point at column 12, lines 20-35, this reference merely describes the second, third, and fourth, tiers of the hierarchy. Memory requests within each of these tiers are scheduled in order, but these tiers do not describe a switch point. Rather, this reference merely describes the types of memory operations which are categorized in each tier. In particular, the second tier includes pending non-speculative memory operations in the opposite bus direction; the third tier includes non-speculative

operations in the same bus direction for pages not currently open; and the fourth tier includes non-speculative operations in the opposite bus direction for pages not currently open. Strongin, col. 12, lines 21-36. The Office Action also asserts that Strongin discloses a switch point at column 18, lines 22-35. Again, this reference merely describes using a hierarchy to schedule the pending memory operations, but does not describe a switch point. In particular, the cited reference merely discloses scheduling first tier operation (open pages in the same bus direction) before scheduling operations from the second, third, and fourth tiers (closed pages or a different bus direction). Strongin, col. 18, lines 29-35; see also col. 12, lines 11-36.

The Office Action further states that "the 'switch point' is when the pending requests consistent with the memory bus direction are issued, and the bus direction reverses, or switches . . . ." However, this statement places the term "switch point" out of context because it attempts to interpret "switch point" as merely a point in time. If the switch point were merely a point in time, then the description in paragraph [0031] and other language of the specification would not make sense because a count of memory requests is compared to the switch point. Moreover, the language of claim 1 would not make sense because "the switch point includes a threshold value."

Additionally, even if Strongin were to disclose a switch point, Strongin does not disclose a configurable switch point because there is no disclosure of how "when the pending requests consistent with the memory bus direction are issued, and the bus direction reverses, or switches" might be configured. In fact, the method of Strongin for scheduling memory operations is fixed—not configurable—according to the scheduling hierarchy. Strongin explicitly states "the pending memory operations are scheduled for execution in the following hierarchy" and proceeds to explain the six tiers. Strongin, col. 12, lines 11-44. Strongin does not disclose any way to change or reconfigure the tiers of the schedule hierarchy. Thus, Strongin does not disclose a configurable switch point.

Novak also fails to teach a configurable switch point. Although Novak teaches counting requests to prevent starvation of service to requests with lesser priority, Novak does not describe configuring or allowing the PH request limit to be configured. Novak merely teaches that the PH request limit is set at 32 so that no more than 32 PH requests are serviced consecutively. Thus, Novak does not disclose a configurable switch point.

In contrast, claim 1 includes "storing a configurable switch point, wherein the configurable switch point includes a threshold value to indicate when to switch from the current state to an alternate state of the device." For the reasons stated above, Strongin and Novak fail to disclose all of the limitations of claim 1. In particular, Strongin and Novak do not disclose storing a configurable switch point, wherein the configurable switch point includes a threshold value to indicate when to switch from the current state to an alternate state of the device. Given that the cited references fail to disclose all of the limitations of the claim, Applicant respectfully submits that claim 1 is patentable over the cited references. Accordingly, Applicant requests that the rejections of claim 1 under 35 U.S.C. §§ 102(e) and 103(a) be withdrawn.

Each of independent claims 6, 8, and 21 includes a similar limitation to the limitation of claim 1. Given that the cited references fail to disclose at least the described limitations, Applicant respectfully submits that independent claims 6, 8, and 21 are each patentable over the cited references. Furthermore, independent claims 6, 8, and 21 may be patentable over the cited references for additional reasons. Accordingly, Applicant requests that the rejections of claims 6, 8, and 21 under 35 U.S.C. §§ 102(e) and 103(a) be withdrawn.

Given that claims 2-3 and 5 depend from independent claim 1, which is patentable over the cited reference, Applicant respectfully submits that dependent claims 2-3 and 5 are also patentable over the cited reference. Accordingly, Applicant requests that the rejection of claims 2-3 and 5 under 35 U.S.C. §§ 102(e) and 103(a) be withdrawn.

Given that claims 7, 18, 20, and 22-25 depend from independent claim 6, which is patentable over the cited reference, Applicant respectfully submits that dependent claims 7, 18, 20, and 22-25 are also patentable over the cited reference. Accordingly, Applicant requests that the rejection of claims 7, 18, and 20 under 35 U.S.C. §§ 102(e) and 103(a) be withdrawn.

Given that claims 9-11, 13-14, 17, 19, and 26-29 depend from independent claim 8, which is patentable over the cited reference, Applicant respectfully submits that dependent claims 9-11, 13-14, 17, 19, and 26-29 are also patentable over the cited reference. Accordingly, Applicant requests that the rejection of claims 9-11, 13-14, 17, and 19 under 35 U.S.C. §§ 102(e) and 103(a) be withdrawn.
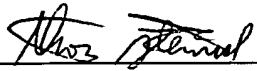
CONCLUSION

It is respectfully submitted that in view of the remarks set forth herein, the rejections have been overcome. If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Thomas S. Ferrill at (408) 720-8300.

If there are any additional charges, please charge them to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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